IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

Crl.MC.No. 2850 of 2007()

CC.741/1998 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II, KANNUR

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PETITIONER: 2ND ACCUSED

PRADEEPAN K., AGED 38 YEARS,
S/O.LATE BHASKARAN,KARIMBUMKARA HOUSE,PO CHIRAKKAL
ARAYAMBETH, KANNUR DT.,BEING AN UNSOUND PERSON IS
REP.BY HIS MOTHER MEENAKSHI,AGED 65 YEARS,
W/O.LATE BHASKARAN, KARIMBUMKARA HOUSE,
P.O.CHIRAKKAL, ARAYAMBETH, KANNUR DISTRICT.

BY ADV. SRI.SUNIL V.MOHAMMED

RESPONDENTS: STATE

THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ALONG WITH CRL.M.C.NO. 2851/07 ON 11/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. Nos.2850
& 2851 Of 2007

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Dated this the 11th day of September, 2007

ORDER

The common petitiner in these Crl.M.Cs is the 2nd accused in two separate prosecutions, all for bailable offences, pending before the Judicial First Class Magistrate Court-II, Kannur. The co-accused have already been tried, found not guilty and acquitted. The case against the petitioner was split up. The learned counsel for the petitioner submits that consequent to non-appearance of the petitioner, warrants of arrest have been issued against the petitioner in both these cases. According to the petitioner he is absolutely innocent. His absence was not wilful. He was having a psychiatric ailment and was hence undergoing treatment. He was hence not able to appear before the learned Magistrate. He is willing to surrender before the learned Magistrate but he apprehends that his application for bail may not be considered by the learned Magistrate,on merits, in accordance with law and expeditiously. He therefore prays that a direction may be issued under Section 482 Cr.P.C to the learned Magistrate to release him on bail when he appears and applies for bail.

2. It is for the petitioner to appear before the learned

Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. The learned Magistrate must consider such application for bail on merits, in accordance with law and expeditiously. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This Crl.M.C. is, in these circumstances, dismissed, but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously- on the date of surrender itself.

4. In the peculiar circumstances of this case, there shall be a direction that the warrant of arrest issued against the petitioner shall not be executed till 25.09.07. The petitioner shall, in the meantime, appear before the learned Magistrate and seek regular bail.

5. The petitioner finally submits that the petitioner intends to

stake the claim for premature termination of proceedings by discharge/stoppage of proceedings at the stage of Sec.239/258 Cr.P.C. Needless to say, such claims will have to be considered by the learned Magistrate on merits.

Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE